

Order

Entered: February 4, 2003

Michigan Supreme Court
Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

1998-50
1999-55

Amendments of Rule 1101 of
the Michigan Rules of Evidence
and Rules 3.701, 3.708, 3.709,
3.800, 5.125, and 5.151 of
the Michigan Court Rules

On December 18, 2001, the Court entered an order amending former Rules 5.750-5.756 and 5.781-5.783 of the Michigan Court Rules, and renumbering them as MCR 3.800-3.806 and 3.613-3.615, respectively, in light of the transfer of jurisdiction of certain actions from the probate court to the family division of the circuit court. See MCL 600.1001 *et seq.* In addition, concurrently with the entry of this order, the Court is adopting new subchapter 3.900 of the Michigan Court Rules, deleting subchapter 5.900, and amending the rules in subchapter 6.900, all regarding proceedings involving juveniles, to be effective May 1, 2003. Those amendments necessitate changes in other Michigan Court Rules and the Michigan Rules of Evidence. Accordingly, the following amendments of Rule 1101 of the Michigan Rules of Evidence and Rules 3.701, 3.708, 3.709, 3.800, 5.125, and 5.151 of the Michigan Court Rules are adopted, to be effective May 1, 2003. These amendments are adopted without publication for comment because they are technical changes that do not significantly affect the delivery of justice. MCR 1.201(D).

[The Notes following each rule are published only for the benefit of the bench and bar and are not authoritative constructions by the Court.]

AMENDMENT OF MICHIGAN RULES OF EVIDENCE

Rule 1101 Applicability

- (a) [Unchanged.]
- (b) Rules inapplicable. The rules other than those with respect to privileges do not apply in the following situations and proceedings:
 - (1)-(6) [Unchanged.]
 - (7) Proceedings involving juveniles ~~Juvenile court proceedings~~. Proceedings in the juvenile family division of the probate circuit court wherever MCR ~~S~~subchapter 3.900 ~~5-900~~ states that the Michigan Rules of Evidence do not apply.

(8) [Unchanged.]

NOTE: THE AMENDMENT OF MRE 1101(7) CHANGES THE REFERENCES TO THE SUBCHAPTER GOVERNING JUVENILE PROCEEDINGS.

AMENDMENTS OF MICHIGAN COURT RULES

Rule 3.701 Applicability of Rules; Forms

- (A) Scope. Except as provided by this subchapter ~~of rules~~ and the provisions of MCL 600.2950 and 600.2950a, actions for personal protection for relief against domestic violence or stalking are governed by the Michigan Court Rules. Procedure related to personal protection orders against adults is governed by this subchapter. Procedure related to personal protection orders against minors is governed by subchapter 3.900 ~~5.900~~, except as ~~noted~~ provided in MCR 53.981.
- (B) [Unchanged.]

NOTE: THE AMENDMENT OF MCR 3.301(A) CHANGES THE CROSS-REFERENCE TO THE SUBCHAPTER GOVERNING JUVENILE PROCEEDINGS.

Rule 3.708 Contempt Proceedings for Violation of Personal Protection Orders

- (A) In General.
- (1) [Unchanged.]
- (2) Proceedings to enforce a minor personal protection order where the respondent is under 18 are governed by subchapter 3.900 ~~5.900~~. Proceedings to enforce a personal protection order issued against an adult, or to enforce a minor personal protection order still in effect when the respondent is 18 or older, are governed by this rule.
- (B) - (H) [Unchanged.]

NOTE: THE AMENDMENT OF MCR 3.708(A)(2) CHANGES THE CROSS-REFERENCE TO THE SUBCHAPTER GOVERNING JUVENILE PROCEEDINGS.

Rule 3.709 Appeals

(A) Rules Applicable. Except as provided by this rule, appeals involving personal protection order matters must comply with subchapter 7.200. Appeals involving minor personal protection actions under the Juvenile Code must additionally comply with MCR 53.993.

(B) - (C) [Unchanged.]

NOTE: THE AMENDMENT OF MCR 3.709(A) CHANGES THE CROSS-REFERENCE TO THE SUBCHAPTER GOVERNING JUVENILE PROCEEDINGS.

Subchapter 3.800 Adoption

Rule 3.800 Applicable Rules

(A) Generally. Except as modified by MCR 3.801-3.806, adoption proceedings are governed by the rules generally applicable to civil proceedings.

(B) Interested Parties. The persons interested in various adoption proceedings are as provided by MCL 710.24a, except that the interested persons in a petition to terminate the rights of the noncustodial parent pursuant to MCL 710.51(6) are:

- (a) the petitioner;
- (b) the adoptee, if over 14 years of age; and
- (c) the noncustodial parent.

NOTE: THE AMENDMENT OF MCR 3.800 MOVES THE PROVISION REGARDING THE INTERESTED PARTIES IN ADOPTION PROCEEDINGS FROM MCR 5.125(C)(32) AND MAKES NONSUBSTANTIVE LANGUAGE CHANGES.

Rule 5.125 Interested Persons Defined

(A) - (B) [Unchanged.]

(C) Specific Proceedings. Subject to subrules (A) and (B) and MCR 5.105(E), the following provisions apply. When a single petition requests multiple forms of relief, the petitioner must give notice to all persons interested in each type of relief:

(1) - (28) [Unchanged.]

~~(29) The persons interested in a petition for treatment of infectious disease are~~

(a) ~~the petitioner and~~

(b) ~~the respondent.~~

(29) - (30) [Formerly (30)-(31), redesignated, but otherwise unchanged.]

(32) ~~The persons interested in various adoption proceedings are as found at MCL 710.24a except as follows:~~

~~Petition to terminate rights of a noncustodial parent. The interested persons in a petition to terminate the rights of the noncustodial parent pursuant to MCL 710.51(6) are:~~

(a) ~~the petitioner;~~

(b) ~~the adoptee, if over 14 years of age; and~~

(c) ~~the noncustodial parent.~~

(31) [Formerly (33), redesignated, but otherwise unchanged.]

(D) - (E) [Unchanged.]

NOTE: THE AMENDMENTS OF MCR 5.125(C) DELETE PROVISIONS LISTING INTERESTED PARTIES IN PETITIONS FOR TREATMENT OF INFECTIOUS DISEASE AND ADOPTION PROCEEDINGS, WHICH ARE NOW WITHIN THE JURISDICTION OF THE FAMILY DIVISION OF THE CIRCUIT COURT. THE SUBSTANCE OF THOSE PROVISIONS IS INCLUDED IN MCR 3.615 AND 3.800.

Rule 5.151 Jury Trial, Applicable Rules

Jury trials in probate proceedings shall be governed by MCR 2.508 through 2.516 except as modified by this subchapter or MCR 5.740 for mental health proceedings ~~and MCR 5.911 for juvenile proceedings.~~

NOTE: THE AMENDMENT OF MCR 5.151 DELETES THE REFERENCE TO JUVENILE PROCEEDINGS, WHICH ARE NO LONGER WITHIN THE JURISDICTION OF THE PROBATE COURT.



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 4, 200*3* *Corbin R. Davis*

Clerk